

2) Whether you are using fixed cameras on smart motorways to enforce compliance with “red X” signals and issue FPNs to motorists? If you have cameras but are not enforcing “red X” contraventions for any reason(s) please confirm this.

Applicable Exemptions:

Section 31(1)(a)(b) Law enforcement
Section 38(1)(b) Health and safety

Harm

A red X, means stay out of that lane because there's a hazard up ahead. This may be an incident or people working ahead, therefore it is vital that the lane is kept clear to protect the safety of individuals involved whilst also allowing access for maintenance or emergency services.

Prior to legislation introduced in June 2019 (The Road Traffic Offenders (Prescribed Devices) Order 2019) to enable automatic detection of red X violations and enforcement using these cameras, research by Highways England showed that in one area of the country alone, at least 10% of drivers did not take notice when red Xs were used to close lanes:

<https://www.gov.uk/government/news/red-x-warning-for-north-west-s-motorway-drivers>

These findings were further supported by research from the RAC who found that nearly a fifth of motorists had driven in a lane closed by the red X sign in 2018/19.

These pieces of research clearly show that without enforcement, a large proportion of drivers will ignore these signs. There is therefore an inherent risk in providing information about exactly what specific cameras currently are and are not monitoring at any given time as this would identify to the general public where they were more or less likely to be caught should they break the law by driving in a lane displaying a red X. This information in the public domain (as evidenced by the research above) would lead to some individuals ignoring these signs on stretches of road where they knew cameras were not enforcing such behaviour and their chance of being prosecuted reduced. Thus increasing the level of offending in these areas and endangering the lives of road users.

Public Interest Test

Section 31 - Public interest factors in favour of releasing the information

Release of the information would show that the force is open and transparent. This could lead to an increase in public confidence in the police, resulting in better cooperation, with more information being shared with us to help prevent and detect crime.

Section 31 - Public interest factors in withholding the information

It is illegal to drive in a lane closed by a red X signal, punishable by a fixed penalty of up to £100 and three points, and in some cases more severe penalties or a court appearance.

However, the research detailed above shows that without fear of prosecution, a large number of drivers will choose to break the law by driving in lanes displaying a red X. If information was released that potentially identified motorways locally or across the country where enforcement was not taking place, this would encourage some drivers to break the law on these stretches of road. This would also impact on police resources in attending and investigating the increased number of incidents that would occur as a result of this increase in criminal behaviour.

Section 38 - Public interest factors in favour of releasing the information

Release of the information would allow for better informed public awareness and debate.

Section 38 - Public interest factors in withholding the information

Withholding the information would discourage the large number of drivers, as evidenced in the harm above, who would endanger the lives of themselves and others, by disregarding lane signs on particular stretches of motorway, or those force areas that they had knowledge automatic enforcement was not taking place.

Balancing Test

For a public interest test, factors that favour release of the requested information have to be weighed against factors that favour non-release. The public interest is not what interests the public, or a particular individual, but what will be for the greater good if released to the community as a whole.

The issue of openness, transparency and a better informed public is noted, however this has to be weighed against the fact that with a reduced threat of being caught, a large number of drivers will choose to break the law, endangering the health and safety of themselves and other road users and impacting on police resources.

The police are charged with enforcing the law and protecting the public and indeed our own vision is *'preventing crime, protecting the public and helping those in need'*. To release any information that would encourage criminal behaviour and endanger the safety of the public would be in direct contravention of our policing role and vision and this cannot be in the public interest.

Therefore it is my view that the factors for release of the requested information are outweighed by the factors for non-release. West Midlands Police will not release information that would endanger the safety of an individual or prejudice the prevention or detection of crime and the apprehension or prosecution of offenders.